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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/001,565 | 11/15/2001 | Anja Drucks | P29706 | 2712 |
| 7055 | 7590 | 03/12/2007 | EXAMINER | |
| GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191 | | | KIM, JENNIFER M | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1617 | |

| SHORTENED STATUTORY PERIOD OF RESPONSE | NOTIFICATION DATE | DELIVERY MODE |
|--|-------------------|---------------|
| 3 MONTHS | 03/12/2007 | ELECTRONIC |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 03/12/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/001,565 | DRUCKS ET AL. | |
| | Examiner | Art Unit | |
| | Jennifer Kim | 1617 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 13 December 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 21-40 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicants' election with traverse of viscose fiber as a species of fiber is acknowledged. The traversal is on the ground(s) that there would not appear to be a "serious burden" on the PTO in examining claims directed to the non-elected inventions since the examination would overlap, i.e., the species of fibers noted-above and that restriction requirement provided the insufficient basis for why the species of fibers are patentably distinct and thus would require separate examination. This is not found persuasive because the claims are drawn to an astronomical number of fibers with different and unrelated physical and chemical material having its own unique physical/chemical characteristics. Applicants' attention is drawn to Ullmann's Encyclopedia of Industrial Chemistry, Fifth revised edition, Vol. A17 of record, on pages 567-569, teach that the different characteristics of the fiber. Further, each of the various fibers are derived from different raw material, for example, silk is derived from silkworm; and polyester is a synthetic polymeric resins formed chiefly by condensing polyhydric alcohols with dibasic acids used in making plastics. Therefore, a serious burden would place on the Examiner to search all the vast array of unrelated fibers involving different material makeup and different characteristics from the chemical and physical materials derived from the fiber. Therefore, claims have been examined only to the extent of Applicants' elected species of viscose fiber.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 21-40 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The term "liquid" in claims 21-31, 34 and 39-40 and the term "transverse" in claim 38 lack literal support in the specification as originally filed. This is a New Matter rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 21-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pung et al. (WO 99/25318) in view of Brennan et al. (U.S. Patent No. 6,361,784B1) of record and Ullmann's Encyclopedia of Industrial Chemistry Fifth Completely Revised Edition, Vol. A17, of record (Ullmann).

Pung et al. teach personal aqueous cleansing wipe article having superior softness, feel and cleansing properties. Pung et al. teach that the wipe comprises a substrate and an aqueous liquid cleansing composition, which is coated onto or impregnated into said substrate. (page 1, lines 5-18). Pung et al. teach that the substrate is a single-layer, nonwoven substrate which is formed from hydroentangled fibers. (abstract, page 3, lines 78-110). Pung et al. teach that the cleansing wipe have a viscosity in the range of from about 1 to about 1000, preferably from about 5 to about 200 centipoises as measured by a Brookfield Digital Viscometer. (page 25, lines 875-

880). This is within Applicant's viscosity set forth in claims 21 and 39. Pung et al. teach that drying agents such as alcohols can be employed in the cleansing wipe. (page 24 lines 845-853). Pung et al. teach that a skin moisturizing agent, antioxidants, fragrance components (perfume), sunscreening agents (UV filter), petrolatum (wax) can be also employed in the wipe. (page 16, lines 545-535, page 25, lines 857-875, claim 5). Pung et al. teach that water can be employed in the wipe and the amount of water employed can be adjusted. (page 27, table). Pung et al. teach anti-acne actives, anti-wrinkle and anti-skin atrophy actives (dermatological active ingredient) can be employed in the wipe.

Pung et al. do not teach the specific fiber of viscose, aqueous composition comprising emulsion or microemulsion, and thickness, tear strength, expandability and the thickness of the fiber.

Brennan et al. teach a nonwoven wipe suitable for use as a pre-moistened comprising viscose fiber in combination with polypropylene for an economical balance of softness and bondability. (abstract, column 5, lines 25-27). Brennan et al. teach that the viscose provides excellent softness and cloth-like properties. (column 5, lines 25-30). Brennan et al. teach that pre-moistened cleansing wipes are well known and are often include a substrate, such as a non-woven web, pre-moistened with a lotion comprising a oil-in-water emulsion type formulation.

Ullmann teaches viscose fibers have increased used in wet-laid nonwoven and in water entanglement process for manufacturing nonwoven that are environmentally friendly because the viscose fibers are readily degradable. (page 568, under Viscose fibers).

It would have been obvious to one of ordinary skill in the art to modify Pung et al's cleansing wipe using viscose fiber because Pung et al. teach that hydroentangles fibers can be employed as a substrate and Ullmann teaches that there is an interest in use of viscose fiber because viscose fibers are used in water entanglement process and environmental friendly. One would have been motivated to employ viscose fiber in Pung et al's wipe in order to achieve a soft cleansing wipe readily degradable to help the keep the environment safe. To optimize the proportions of the ingredients, thickness, tear strength, expandability of the fiber to be used, the pharmaceutical forms, e.g., emulsion or microemulsion are all deemed obvious since they are all within the knowledge of the skilled artisan and represent conventional formulations. Moreover, Brennan et al. teach that pre-moistened cleansing wipes are well known and are often pre-moistened with a lotion as oil-in water emulsion type formulation. There is a lack of teaching in the specification that the thickness, tear strength, expandability of the fiber to be used in the applicants' wipe is critical. Thus, the claims fail to patentably distinguish over the state of the art as represented by the cited references.

None of the claims are allowed.

Response to Arguments

Applicant's arguments with respect to claims 21-40 have been considered but are moot in view of the new ground(s) of rejection.

Applicants' submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on August 15, 2006 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609.04(b). Applicants are reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer Kim whose telephone number is 571-272-0628. The examiner can normally be reached on Monday through Friday 6:30 am to 3 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreenivasan Padmanabhan can be reached on 571-272-0629. The fax

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phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Sreenivasan Padmanabhan
Supervisory Primary Examiner
Art Unit 1617

Jmk
February 28, 2007

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